

Remarks

The following remarks are responsive to the Office Action dated March 23, 2007.

The Applicants would like to thank Examiner Hernandez for the telephone conversation that took place on May 10, 2007. During the conversation, the Applicants' representative pointed out that U.S. Patent Application Publication No. 2004/0023520 to Schriefer relied upon by the Examiner is a non-provisional application that claims the benefit of three provisional applications. The non-provisional application has a filing date (July 11, 2003) later than Applicants' priority date (February 10, 2003), and the provisional applications have filing dates earlier than Applicants' priority date. The Applicants' representative pointed out to the Examiner that at least one of the key paragraphs in the non-provisional application reference relied upon by the Examiner is absent from the provisional applications. The Examiner and the Applicants' representative agreed that if the above priority date argument is accepted by the Examiner, the next Office Action, if any, would be non-final.

Summary of the Rejections

At the time of the Office Action, claims 1-8 were pending. Claims 1-8 stand rejected under 35 U.S.C. § 103(a).

Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 7,095,437 to Hatakeyama (hereinafter Hatakeyama) in view of U.S. Patent Application Publication No. 2004/0023520 to Schriefer (hereinafter Schriefer). Claims 5-8 stand rejected under 35 U.S.C. § 103(a) as obvious over Hatakeyama in view of Schriefer, and in further view of U.S. Patent No. 6,373,904 to Sakamoto et al. (hereinafter Sakamoto). Each of the claims, were rejected based upon the combination of Hatakeyama and Schriefer.

The Office Action admits, that Hatakeyama does not disclose the limitation of a digital camera with a USB storage device. The Office Action relies upon Schriefer as allegedly teaching this claim limitation, quoting paragraph 30 from Schriefer, which states that USB connectors can be used on hosting devices such as digital cameras. The Office Action then concludes that it would have been obvious to one of ordinary skill in the art to modify Hatakeyama by using a USB drive as suggested by Schriefer.

Priority of the Present Application

It is important to take note of the critical dates of the present application and the Schriefer reference. The present application is based upon a non-provisional application filed on February 9, 2004, which claims the benefit of a foreign application filed on February 10, 2003, in Korea. A certified copy of the foreign priority application has been filed with the present application. The disclosure of the present application is based on the foreign application. Thus, the claims of the present application are entitled to the foreign filing date of February 10, 2003.

Deficient Priority of the Schriefer Reference

The Schriefer reference is a U.S. Patent Application Publication filed on July 11, 2003, claiming priority of provisional application No. 60/400,792 filed on August 2, 2002, provisional application No. 60/416,569 filed on October 7, 2002, and provisional application No. 60/438,467 filed on January 7, 2003. For the Examiner's reference, copies of the Schriefer provisional applications, U.S. Provisional Application No. 60/400,792, U.S. Provisional Application No. 60/416,569, and U.S. Provisional Application No. 60/438,467, are enclosed herewith.

It is clear from a comparison of the Schriefer reference to the Schriefer provisional applications that the subject matter upon which the Examiner relies, namely, paragraph 30, is absent from the Schriefer provisional applications. Indeed, with respect to the subject matter from the Schriefer reference upon which the Examiner relies, Applicants are unable to find any support from the Schriefer provisional applications. In this regard, the earliest date upon which the Examiner may rely for the Schriefer reference is July 11, 2003, the filing date of the non-provisional application that contains the subject matter upon which the Examiner relies. See MPEP 706.02(f)(1), particularly Example 2 (provisional application date may be relied upon "assuming the earlier-filed application has proper support for the subject matter.").

In re Appln. of Jang et al.
Application No. 10/774,557
Response to Office Action of March 23, 2007

Rejection should be withdrawn because Schriefer reference cannot be relied upon

Although the rejection of the claims of the present application is under 35 U.S.C. § 103(a) based upon the combination of the Hatakeyama and Schriefer references, one must first determine if the Schriefer reference can be relied upon under the provisions of 35 U.S.C. § 102(e) to extend back to the Schriefer provisional application filing date. It cannot because the subject matter relied upon by the examiner from the Schriefer reference is absent from the Schriefer provisional application. The provisions of 35 U.S.C. § 102(e) could be relied upon only to extend the date back to the Schriefer non-provisional application filing date, where the subject matter upon which the examiner relies is first found. Furthermore, since the filing date of the Schriefer reference (**July 11, 2003**) is later than the date upon which the present application is entitled to priority (**February 10, 2003**), the Schriefer non-provisional application cannot be relied upon either. Applicants respectfully submit, therefore, that for this reason alone, the rejections of the claims of the present application must be withdrawn.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

Respectfully submitted,



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Date: June 18, 2007

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CERTIFICATE OF MAILING

I hereby certify that this RESPONSE TO OFFICE ACTION OF MARCH 23, 2007 (along with any documents referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Date: June 18, 2007



Irina L. Mikitiouk

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